SENATE BILL No. 305

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-42-22.

Synopsis: Substitution of antiepileptic drug. Prohibits a pharmacist from substituting another brand name or generic antiepileptic drug unless the pharmacist receives consent from specified individuals.

Effective: July 1, 2009.

Miller

January 7, 2009, read first time and referred to Committee on Health and Provider Services.

Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 305

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-42-22-8, AS AMENDED BY P.L.204-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) **Except as provided in subsection (c),** for substitution to occur for a prescription other than a prescription filled under the Medicaid program (42 U.S.C. 1396 et seq.), the children's health insurance program established under IC 12-17.6-2, or the Medicare program (42 U.S.C. 1395 et seq.):

(1) the practitioner must:

(A) sign on the line under which the words "May substitute" appear; or

(B) for an electronically transmitted prescription, electronically transmit the instruction "May substitute."; and

(2) the pharmacist must inform the customer of the substitution.

(b) This section does not authorize any substitution other than substitution of a generically equivalent drug product.

(c) A pharmacist may not substitute another brand name or a generically equivalent drug product for a prescribed antiepileptic

drug unless the pharmacist receives the consent of:

(1) the customer's prescribing physician; and

(2) the customer or the customer's legal guardian.

SECTION 2. IC 16-42-22-10, AS AMENDED BY P.L.204-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) If a prescription is filled under the Medicaid program (42 U.S.C. 1396 et seq.), the children's health insurance program established under IC 12-17.6-2, or the Medicare program (42 U.S.C. 1395 et seq.), the pharmacist shall substitute a generically equivalent drug product and inform the customer of the substitution if the substitution would result in a lower price unless:

(1) the words "Brand Medically Necessary" are:

(A) written in the practitioner's own writing on the form; or

(B) electronically transmitted with an electronically transmitted prescription; ~~or~~

(2) the practitioner has indicated that the pharmacist may not substitute a generically equivalent drug product by:

(A) orally stating that a substitution is not permitted; or

(B) for an electronically transmitted prescription, indicating with the electronic prescription that a substitution is not permitted; **or**

(3) the prescribed drug is an antiepileptic drug.

(b) If a practitioner orally states that a generically equivalent drug product may not be substituted, the practitioner must subsequently forward to the pharmacist a written or electronically transmitted prescription with the "Brand Medically Necessary" instruction appropriately indicated in the physician's own handwriting.

(c) This section does not authorize any substitution other than substitution of a generically equivalent drug product.